

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF APPLICATION OF	)	
DIAMOND STATE SUSTAINABILITY	)	
CORPORATION FOR APPROVAL TO BEGIN	)	
THE BUSINESS OF PROVIDING WASTEWATER	)	
PUBLIC UTILITY SERVICE IN THE STATE	)	
OF DELAWARE PURSUANT TO 26 <i>DEL. C.</i> §	)	
203A AND FOR A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO PROVIDE	)	PSC DOCKET NO. 17-0414
WASTEWATER SERVICES TO THE EXISTING	)	
DEVELOPMENT OF COUNTRY GLEN II	)	
LOCATED EAST OF THE TOWN OF	)	
BRIDGEVILLE, SUSSEX COUNTY, DELAWARE	)	
PURSUANT TO 26 <i>DEL. C.</i> § 203D	)	
(SUBMITTED JUNE 2, 2017, FILED	)	
DECEMBER 13, 2017)	)	

**ORDER NO. 9163**

This 16<sup>th</sup> day of January, 2018, the Delaware Public Service Commission (the "Commission") determines and Orders the following:

**WHEREAS**, the Commission exercises regulatory oversight over non-governmental wastewater public utilities that serve fifty or more customers. See 26 *Del. C.* §§ 102(2) and 203D (a). That regulatory oversight includes the authority to grant Certificates of Public Convenience and Necessity ("CPCN") to enable an entity to begin the business of a wastewater public utility or to permit an existing wastewater public utility to extend its system and operations. See 26 *Del. C.* § 203D (a). Under such statutory regime, and specifically 26 *Del. C.* § 203D (d) (3), a wastewater utility may obtain a CPCN for an existing development, subdivision, or generally recognized unincorporated community, by submitting one or more petitions

requesting wastewater services executed by the landowners of record of properties that constitute a majority of the properties in the existing development, subdivision, or unincorporated community; and

**WHEREAS**, on April 1, 2005, the Commission adopted final *Regulations Concerning the Jurisdiction of the Public Service Commission to Grant and Revoke Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 Del. Admin. C. § 6002 (the "Regulations"). These Regulations implement the CPCN regime for public wastewater utilities; and

**WHEREAS**, on June 2, 2017, Diamond State Sustainability Corporation ("DSSC" or the "Company") submitted an application (as later amended, the "Application") with the Commission requesting (1) authority to begin the business of providing wastewater utility in the State of Delaware and (2) approval for a Certificate of Public Convenience and Necessity ("CPCN") to provide its wastewater services to the community of Country Glen II, located east of the Town of Bridgeville, Sussex County, Delaware ("Proposed Service Area"). County Glen II is an existing community consisting of 38 homes. The basis for the Application is the Company's possession of signed petitions requesting wastewater services representing a majority of the properties comprising the Proposed Service Area as set forth in 26 Del. C. § 203D(d)(3)<sup>1</sup>. In this case, the Company has presented

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<sup>1</sup> Specifically, 26 Del C. § 203D(d)(3) states: "In the case of an existing development, subdivision, or generally recognized unincorporated community, 1 or more petitions requesting wastewater service from the applicant executed by the landowners of record of parcels and properties that constitute a majority of the parcels or properties in the existing development, subdivision or unincorporated community[.]" In this case, the Company has presented signatures from 29 of 49 landowners requesting wastewater services,

signatures from landowners requesting wastewater services for 26 of the 38 properties in the existing community, representing a majority of the parcels in the Proposed Service Area; and

**WHEREAS**, as required by 26 Del. C. § 203A and the Regulations, DSSC included in its Application: (1) evidence that it possesses the financial, operational, and managerial capacity to comply with all federal, state and local wastewater requirements; (2) a copy of the applicant's certificate of incorporation or other documents reflecting the applicant's formation, and the applicant's business license; (3) details of plant as to type, capacity, cost, status of plant construction, construction schedule, and estimated number of customers to be served; (4) a map showing the location and size, in acres or square feet, of the proposed territory, and the composition, diameter, length, and location of pipes to be initially installed; and (5) a copy of a letter of intent from White Marsh Environmental Services, Inc., an established wastewater treatment and services company, indicating that it will operate, manage, and maintain the wastewater system within the Proposed Service Area pursuant to a contract with DSSC; and

**WHEREAS**, as required by 26 Del. C. § 203D(d)(2) and the Regulations, DSSC included in its Application: (1) a petition requesting wastewater services signed by the landowners of record representing 26 of the 38 properties encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission

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representing 26 of the 38 properties in the existing community and constituting the required majority at 59.18%.

approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; (4) a copy of the associated tax map clearly marking the Proposed Service Area; and (5) a copy of a letter from Sussex County approving the CPCN; and

**WHEREAS**, as required by the Regulations, Staff requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control ("DNREC"). On June 7, 2017, DNREC responded stating it had no objection to the Application. Staff copied the County and the Delaware Office of State Planning (the "OSP") on its request for comment sent to DNREC; and

**WHEREAS**, on June 8, 2017, OSP filed a response which did not object to the Application, but merely provided the Commission with the State of Delaware investment level planning information with respect to the parcels included in the Proposed Service Area; and

**WHEREAS**, because DSSC will begin offering wastewater services upon approval of the CPCN Application, and in compliance with 26 Del. C. § 301, DSSC filed a proposed tariff with proposed rates on November 17, 2017; and

**WHEREAS**, on December 13, 2017, DSSC submitted the letter of intent from White Marsh. At this point the Application was deemed to be complete and filed; and

**WHEREAS**, based upon documentation included in the CPCN application, information solicited by Staff, and Staff's analysis, the Commission concludes that DSSC has the financial capacity to begin and

operate a wastewater system to serve Country Glen II subdivision, and that DSSC service in the subdivision will serve the public convenience and necessity. In addition, DSSC, through its contract with White Marsh, has the ability to comply with all federal and state laws and regulations related to the management and operation of a wastewater system as a public utility. See 26 Del. C. § 203D (d) (5); and

**WHEREAS,** consistent with the statutory requirements, the Commission now grants a CPCN to DSSC to begin operations as a wastewater public utility. As a public utility, DSSC shall be subject to all the relevant provisions of 26 Del. C. as well as the original supervision and regulations of this Commission. This Certificate shall authorize DSSC to provide wastewater public utility services to the Country Glen II subdivision; and

**WHEREAS,** Staff has reviewed the Application and found no errors or omissions. Staff reports to the Commission in its December 15, 2017 Memorandum that the Application meets all applicable requirements for granting a CPCN pursuant to 26 Del. C. § 203D and the Regulations; and

**WHEREAS,** Staff reports that the proposed tariff filed by the Company mirrors, in material manner, the tariffs approved by this Commission for other wastewater utilities in Delaware and should be approved as filed; and

**WHEREAS,** Staff further reports that the proposed tariff rates are just and reasonable based on the financial reports and initial budget filed by the Company; and

**WHEREAS**, for these reasons, the Commission finds that DSSC has met the requirements for the granting of a CPCN and approval of its proposed tariff and, therefore, the Commission shall approve the Application;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That, pursuant to the provisions of 26 *Del. C.* § 203A, the Commission hereby grants a CPCN to DSSC to begin the business of providing wastewater Public Utility service in the State of Delaware.

2. That, pursuant to the provisions of 26 *Del. C.* § 203D(d)(3), the Commission hereby grants a CPCN to DSSC to provide wastewater services to the area more specifically identified as Country Glen II Development.

3. The Commission hereby approves the DSSC proposed tariff filed on November 17, 2017.

4. That DSSC shall comply with all relevant obligations and duties of a public utility as set forth in 26 *Del. C.*, and any relevant rules, regulations, or Orders of this Commission.

5. DSSC shall forthwith provide to the Commission, and thereafter keep current, the name and address of its resident agent.

6. DSSC shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving wastewater utility services provided to the service territory granted by this CPCN.

7. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

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Chair

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Commissioner

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Commissioner

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Commissioner

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Commissioner

ATTEST:

\_\_\_\_\_  
Secretary

**E X H I B I T "A"**

**APPROVED SERVICE AREA  
PARCELS WITHIN CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

**DIAMOND STATE SUSTAINABILITY CORPORAION  
PSC DOCKET NO. 17-0414**

**SUSSEX COUNTY TAX MAP PARCEL NUMBERS**

430-19.00-75.00	430-19.00-95.00
430-19.00-76.00	430-19.00-96.00
430-19.00-77.00	430-19.00-97.00
430-19.00-79.00	430-19.00-124.00
430-19.00-80.00	430-19.00-125.00
430-19.00-81.00	430-19.00-126.00
430-19.00-82.00	430-19.00-129.00
430-19.00-83.00	430-19.00-130.00
430-19.00-84.00	430-19.00-131.00
430-19.00-85.00	430-19.00-132.00
430-19.00-86.00	430-19.00-133.00
430-19.00-87.00	430-19.00-134.00
430-19.00-88.00	430-19.00-135.00
430-19.00-89.00	430-19.00-136.00
430-19.00-90.00	430-19.00-137.00
430-19.00-91.00	430-19.00-138.00
430-19.00-92.00	430-19.00-142.00
430-19.00-93.00	430-19.00-143.00
430-19.00-94.00	